

² The Board notes that following the August 26, 2019 decision, OWCP received additional evidence. However, the Board’s *Rules of Procedure* provides: “The Board’s review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal.” 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this evidence for the first time on appeal. *Id.*

backseat. On July 2, 2012 OWCP accepted appellant's claim for a lumbar and neck sprain. Appellant returned to part-time, modified-duty work on January 28, 2013.

In a report dated September 30, 2016, Dr. Chad S. Altmyer, a Board-certified orthopedic surgeon, related that based on his treatment and diagnostic testing appellant's bilateral knee conditions were causally related to the accepted employment injury.

An August 10, 2017 letter from appellant's then-counsel requested an update on the matter of expanding appellant's accepted conditions to include her bilateral knee conditions.

On October 20, 2017 OWCP denied expansion of appellant's claim to include the additional conditions of bilateral knee osteoarthritis and a right medial meniscus tear because the evidence of record was insufficient to establish that the diagnosed conditions were casually related to her accepted June 19, 2012 employment injury.

On November 9, 2017 appellant requested an oral hearing before an OWCP hearing representative. The hearing was held on April 19, 2018. By decision dated June 5, 2018, an OWCP hearing representative affirmed OWCP's October 20, 2017 decision.

Following the hearing, appellant submitted additional evidence, including a July 17, 2018 report from Mary Britton, a nurse practitioner, and additional follow-up reports from her through April 29, 2019.

Appellant also submitted an October 8, 2018 medical report from Dr. Ava Stegall, a Board-certified family practice physician.

On July 1, 2019 appellant, through counsel, requested reconsideration and submitted additional evidence including a number of visit summaries from Dr. Altmyer.

By decision dated August 26, 2019, OWCP denied appellant's reconsideration request solely based on the fact that the "evidence reviewed in support of her reconsideration request included multiple lists of medical appointment dates from the years 2011 to 2019."

The Board has duly considered the matter and finds that the case is not in posture for a decision. In the case of *William A. Couch*,³ the Board held that when adjudicating a claim OWCP is obligated to consider all evidence properly submitted by a claimant and received by OWCP before the final decision is issued.

In OWCP's August 26, 2019 decision it stated that the evidence reviewed in support of her reconsideration request consisted of multiple lists of medical appointment dates from the years 2011 to 2019. However, the record reflects that after OWCP's June 5, 2018 merit decision appellant additionally submitted multiple reports from Ms. Britton and reports by Dr. Stegall and Dr. Altmyer.

³ 41 ECAB 548 (1990); *see also R.D.*, Docket No. 17-1818 (issued April 3, 2018).

It is crucial that OWCP address all evidence received prior to the issuance of its final decision, as the Board's decisions are final with regard to the subject matter appealed.⁴ The Board finds that this case is not in posture for decision, as OWCP did not review the above-noted evidence in its August 26, 2019 decision.⁵ On remand OWCP shall review all evidence of record, and following any further development as it deems necessary, it shall issue an appropriate decision.

IT IS HEREBY ORDERED THAT the August 26, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further action consistent with this order of the Board.

Issued: September 30, 2020
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

⁴ See *C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); see also *William A. Couch*, *id.*

⁵ See *V.C.*, Docket No. 16-0694 (issued August 19, 2016).